

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JOEL CARTER, — PETITIONER
(Your Name)

VS.

JAMIE AYALA, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joel Carter, #410324
(Your Name)
Macomb Corr. Facility
34625 26 Mile Rd
(Address)

New Haven, MI 48048
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- I. Did the lower court err in granting summary judgment in favor of Respondents on Petitioner's Eighth Amendment deliberate indifference claim, by issuing a decision that conflict with this Court's precedent regarding the denial of medical treatment?*
- II. Did the lower court err in granting summary judgment in favor of Respondents on Petitioner's claim under the Due Process Clause of the Fourteenth Amendment, by entering a decision that conflict with this Court's precedent regarding the right to refuse unwanted medical treatment?*
- III. Did the lower court err in granting summary judgment in favor of Respondents, by entering a decision that conflict with this Court's precedent regarding how only a trier of fact can resolve genuine disputes of material facts?*
- IV. Did the lower court violate the law-of-the-case doctrine when it denied Davis' summary judgment motion on the merits, then granted Davis' summary judgment motion, on the second round without additional evidence?*

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

JAMIE AYALA

ROBERT DAVIS

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, 8th Amend.

U.S. Constitution, 14th Amend.

42 U.S.C §1983

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STATUTES AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix E to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 3, 2018.

☒ No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

STATEMENT OF THE CASE

Petitioner, Joel Carter, a Michigan state prisoner, filed this civil rights action against a prison psychiatrist (Ayala) and a social worker (Davis), alleging that they violated his Eighth Amendment right to appropriate medical care, and retaliated against him for exercising his right to refuse medical treatment in violation of the Due Process Clause of the Fourteenth Amendment.

Petitioner, (hereinafter "Carter"), is diagnosed with suffering from Multiple Sclerosis. As a result of his medical condition, Petitioner was diagnosed with a Psychosis Disorder. [App. F, Aff. of Joel Carter, at 2].

In December 2009, Carter transferred into the Ionia Correctional Facility and was assigned to Davis. Davis notified Carter that because of his "Major Mental Disability" ("MMD") of psychosis he cannot be subject to punitive or administrative segregation. [Aff. of Carter, at 3]. In April 2010, Carter was placed in segregation. Davis approached Carter's cell door and stated, that with a MMD-Carter would be placed into the facility's Secure Status Outpatient Treatment Program ("SSOPT") because segregation presented a risk of harm. [See App. G-2, Davis'

because segregation presented a risk of harm. [See App. E-2, Davis, Facility's Secure Status Outpatient Treatment Program ("SSOPT") and stated, that with a MMD-Carter would be placed into the placed in segregation. Davis approached Carter's cell door and segregation. [Att. of Carter, at 3]. In April 2010, Carter was of psychosis he cannot be subject to punitive or administrative Carter that because of his "Major Mental Disability" ("MMD") Correctional Facility and was assigned to Davis. Davis notified In December 2009, Carter transferred into the Iowa

Att. of Joel Carter, at 2].

Petitioner was diagnosed with a Psychosis Disorder. [App. F, from Multiple Sclerosis. As a result of his medical condition, Petitioner, (hereinafter "Carter"), is diagnosed with suffering

of the Due Process Clause of the Fourteenth Amendment.

him for exercising his right to refuse medical treatment in violation Amendment right to appropriate medical care, and retaliated against a social worker (Davis), alleging that they violated his Eighth this civil rights action against a prison psychiatrist (Ayala) and Petitioner, Joel Carter, a Michigan state prisoner, filed

Mental Health Note]. "The SSOPT is a mental health program designed for the therapeutic management and care of prisoners who are placed in segregation who suffer from a major mental disability, which may preclude adequate adjustment in segregation and assist towards the goal of managing these prisoners in general population. [MDOC Policy Directive 04.06.182].

Plaintiff- Petitioner was admitted into the program, but refused treatment. [Aff. of Carter, at 5]. Carter feared the officers who worked around mentally ill prisoners in the SSOTP unit. Later, Carter was asked on two more occasions, but refused. [Aff. of Carter, at 5-6].

On July 27, 2010, Davis approached Carter's cell door and stated, "if your not going to consent to participate in SSOTP, then I'll be sure that you see the doctor." [Id. at 7]. That same day, Dr. Ayala approached Carter's cell door stating, "Davis referred me to re-evaluate you." [Aff. of Carter, at 8]. The evaluation lasted less than three minutes and was conducted at Carter's cell door. After the meeting, Dr. Ayala changed Carter's diagnosis to an Anxiety Disorder, with no explanation of why he was discontinuing Carter's treatment for psychosis. Dr. Ayala also discontinued Carter's medication for his psychotic symptoms. By changing Carter's

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for the therapeutic management and care of prisoners who are placed

Mental Health Note]. "The 220PT is a mental health program designed

diagnosis, Respondents subjected Carter to segregation and ineligible for SSOTP.

In a mental health progress note on September 15, 2010

Davis states:

He continues to [complain of] his diagnosis, as he expresses the desire to go to the SSOTP. It should be noted that he had been accepted into SSOTP a few months back, and he refused to go on several occasions.

[App. G-2, Mental Health Record]. In another progress note Davis notes:

Inmate disagrees with diagnosis, especially as his current diagnosis makes him ineligible for SSOTP. This CM pointed out to him that he had been admitted to the SSOTP recently and he refused to go several times.

[App. G-2, Mental Health Progress Record]. On September 23, 2010, Dr. Ayala approached Carter's cell and Carter asked him to change his mental health diagnosis back to the psychosis disorder. Dr. Ayala stated in a "Med Management Complex" record:

His main concern is his ineligibility for the SSOTP portion of the out program. Upon reviewing the CM progress notes this is, in part at least, to his previous non-compliance, rather than solely due to a recent change of diagnosis as he claims.... I re-directed him to discuss his wish to return to the SSOTP with his CM and if both come to the conclusion it is worthwhile and possible as a second chance. I'll be glad to reassess

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and reconsider a more favorable diagnostic re-formation. In principle - regardless of internal directives, it is my clinical opinion that individuals with a degenerative neurological condition with poor prognosis such as MS, plus criminality and mental illness to boot, are generally in need of more intensive services regardless of the label assigned to them.

[App. G-1, Med-Management Complex Record]. Dr. Ayala noted in this mental health record "the patient is exhibiting signs of psychosis". *Id.* However, Dr. Ayala failed to correct his unlawful actions.

On May 29, 2011, Carter attempted to commit suicide after being subjected to segregation for 11-months. Dr. Thomas Henry found that Carter's "clinical status was worsening," and that Carter "suffered from paranoia, delusions, and suicidal behavior, along with sleeping and eating problems." [App. G-3, Psychiatric Evaluation]. Dr. Henry re-diagnosed Plaintiff with a psychosis disorder. On June 16, 2011 Carter was transferred to an inpatient mental health facility and released from segregation.

Based on the above allegations, Carter asserts that Respondents intentionally switched or downgraded his diagnosis based solely on his refusal to enter SSOTP. Carter also asserts that Respondents could not use segregation as a lever ~~to~~ to force Carter to accept treatment when segregation itself put him at risk of harm.

and reconsider a more favorable diagnostic re-formation.

In principle - regardless of internal directives, it is my clinical opinion that individuals with a degenerative neurological condition with poor prognosis such as MS, plus criminality and mental illness to boot, are generally in need of more intensive services regardless of the label assigned to them.

[App. E-1, Med-Management Complex Record]. Dr. Ayala noted in this mental health record "the patient is exhibiting signs of psychosis. Id. However, Dr. Ayala failed to correct his unlawful actions.

On May 29, 2011, Carter attempted to commit suicide after being subjected to sequestration for 11-months. Dr. Thomas Henry found that Carter's "clinical status was worsening," and that Carter "suffered from paranoia, delusions, and suicidal behavior, along with sleeping and eating problems." [App. E-3, Psychiatric Evaluation]. Dr. Henry re-diagnosed Plaintiff with a psychosis disorder. On June 16, 2011 Carter was transferred to an inpatient mental health facility and released from sequestration.

Based on the above allegations, Carter asserts that Respondents intentionally switched or downgraded his diagnosis based solely on his refusal to enter 2207P. Carter also asserts that Respondents could not use sequestration as a lever to force Carter to accept treatment when sequestration itself put him at risk of harm.

REASONS FOR GRANTING THE PETITION

I. Did the lower court err in granting summary judgment in favor of Respondents on Petitioner's Eighth Amendment deliberate indifference claim, by issuing a decision that conflicts with this Court's precedent regarding the denial of medical treatment?

*Petitioner argues that the lower court erred because its decision conflicts with this Court's controlling authority in *Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct. 285 (1976); and *Farmer v. Brennan*, 511 U.S. 825, 114 S.Ct. 1970 (1994). The Sixth Circuit Court of Appeals concluded that Carter could not establish the objective or subjective components of an Eighth Amendment deliberate indifference claim. Petitioner asserts that he submitted sufficient to meet his burden on summary judgment.*

Petitioner argues in support of his petition, that the record clearly shows that Respondents changed his mental health diagnosis for non-medical, i.e., because Petitioner's non-compliance with treatment. Petitioner asserts that Respondents could not use segregation as a lever to force him to accept treatment when Respondents were aware that segregation subjected Petitioner to a substantial risk of harm. [See App. G-2, Treatment Team Plan Review "Major stressors that could increase risk of relapse" "Segregation"].

I. Did the lower court err in granting summary judgment in favor of Respondents on Petitioner's Eighth Amendment deliberate indifference claim, by issuing a decision that conflicts with this Court's precedent regarding the denial of medical treatment?

Petitioner argues that the lower court erred because its decision conflicts with this Court's controlling authority in *Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct. 285 (1976); and *Furner v. Brennan*, 211 U.S. 825, 114 S.Ct. 1970 (1994). The Sixth Circuit Court of Appeals concluded that Carter could not establish the objective or subjective components of an Eighth Amendment deliberate indifference claim. Petitioner asserts that he submitted sufficient to meet his burden on summary judgment.

Petitioner argues in support of his petition, that the record clearly shows that Respondents changed his mental health diagnosis for non-medical, i.e., because Petitioner's non-compliance with treatment. Petitioner asserts that Respondents could not use segregation as a level to force him to accept treatment when Respondents were aware that segregation subjected Petitioner to a substantial risk of harm. [See App. G-2, Treatment Team Plan Review "Major stressors that could increase risk of relapse" "segregation"].

II. Did the lower court err in granting summary judgment in favor of Respondents on Petitioner's claim under the Due Process Clause of the Fourteenth Amendment, by entering a decision that conflicts with this Court's precedent regarding the right to refuse unwanted medical treatment?

Petitioner argues that the lower court's decision in this case conflicts with this Court's controlling authority in *Washington v. Glucksberg*, 521 U.S. 702; 117 S.Ct. 2258(1997). The Sixth Circuit concluded that refusal of treatment in a therapy program is not equivalent to refusal of forced psychiatric medication, and Carter failed to present evidence that Respondents change his diagnosis in retaliation for his exercise of his right. The district found contrary, and held that "the alleged Eighth Amendment violation is intertwined with plaintiff's right to refuse medical treatment, a right arises from the Due Process Clause of the Fourteenth Amendment." [See App. B , R & R].

Petitioner argues that certain type of treatment rendered is irrelevant, and that a refusal of treatment - is a refusal of treatment, and that he should not be subject to retaliation for the exercise of this right.

exercise of his right.

treatment, and that he should not be subject to retaliation for the refusal of treatment - is a refusal of treatment rendered is

Amendment." [See App. 8, R.R.]

right arises from the Due Process Clause of the Fourteenth

is intertwined with plaintiff's right to refuse medical treatment, a found contrary, and held that "the alleged Eighth Amendment violation diagnosis in retaliation for his exercise of his right. The district Carter failed to present evidence that Respondents charge his equivalent to refusal of forced psychiatric medication, and concluded that refusal of treatment in a therapy program is not

Glucksberg, 521 U.S. 702; 2 Ct. (1997). The Sixth Circuit conflicts with this Court's controlling authority in Washington v.

Petitioner argues that the lower court's decision in this case regarding the right to refuse unwanted medical treatment? a decision that conflicts with this Court's precedent

Process Clause of the Fourteenth Amendment, by entering favor of Respondents on Petitioner's claim under the Due II. Did the lower court err in granting summary judgment in

III. Did the lower court err in granting summary judgment in favor of Respondents, by entering a decision that conflicts with this Court's precedent regarding how only a trier of fact can resolve genuine disputes of material facts?

Petitioner argues that the lower court's decision in this case conflicts with this Court's ~~in~~ *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 257 (1986), concerning the appropriate method for analysing whether disputed issues of fact exist at summary judgment stage. The Sixth Circuit held that no issues of fact exist, and that Respondents are entitled to summary judgment. Petitioner argues, as the non-moving party, that the facts and evidence must be viewed in the light most favorable to him, and that he submitted sufficient evidence from which a jury could reasonably find in his favor.

Petitioner asserts that Respondents motive is at issue, and that issues of fact in this record still remain; (1) whether Dr. Ayala discontinued Carter's medication and the effect of such denial of medication; (2) whether Respondents decision to change Carter's diagnosis based on medical judgment or were motivated by a desire to punish him for initially refusing treatment; (3) whether Respondents were aware that Carter was exhibiting symptoms of psychosis

III. Did the lower court er in granting summary judgment in favor of Respondents, by entering a decision that conflicts with this Court's precedent regarding how only a trial of fact can resolve genuine disputes of material facts?

Petitioner argues that the lower court's decision in this case

conflicts with this Court's ~~in~~ Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 527 (1986), concerning the appropriate method for analyzing

whether disputed issues of fact exist at summary judgment stage. The Sixth Circuit held that no issues of fact exist, and that Respondents are entitled to summary judgment. Petitioner argues, as the non-moving party, that the facts and evidence must be viewed in the light most favorable to him, and that he submitted sufficient evidence from which a jury could reasonably find in his favor.

Petitioner asserts that Respondents' motive is at issue, and

that issues of fact in this record still remain; (1) whether Dr. Ayala discontinued Carter's medication and the effect of such denial of medication; (2) whether Respondents' decision to change Carter's diagnosis based on medical judgment or were motivated by a desire to punish him for initially refusing treatment; (3) whether Respondents were aware that Carter was exhibiting symptoms of psychosis

during the period they ~~removed~~^{removed} his diagnosis and treatment; (4) whether Respondents knew their change in treatment would keep Carter in segregation; (5) whether Respondents knew that housing Carter in segregation posed a substantial risk of harm, and (6) whether Carter suffered serious injury.

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Carter in segregation posed a substantial risk of harm, and (d)
Carter in segregation; (2) whether respondents knew that housing
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during the period they ~~removed~~^{removed} his diagnosis and treatment; (4)

IV. Did the lower court violate the law-of-the-case doctrine when it denied Davis' summary judgment motion on the merits, then granted Davis' second summary judgment motion on the merits without additional evidence?

The Sixth Circuit held that the district court only decided the issues of exhaustion of administrative remedies and qualified immunity on the first round of summary judgment, and was not prevented from later deciding the merits of Petitioner's claims. [App. E, Opinion, at 4].

Petitioner asserts that this is not true and that a mistake has been made. The lower court did decide the merits on the first round of summary judgment in a Report and Recommendation dated March 30, 2015. [App. B, R & R, at 11-12]. This R & R was subsequently adopted as the opinion of the district court. The district specifically stated that "based on this record, genuine issues of material fact exist with respect to defendant Davis' involvement in plaintiff's treatment, including the treatment plaintiff received and the treatment which plaintiff refused." [Id].

plaintiff refused." [Id.]

including the treatment plaintiff received and the treatment which with respect to defendant Davis' involvement in plaintiff's treatment, that "based on this record, genuine issues of material fact exist adopted as the opinion of the district court. The district specifically March 30, 2012. [App. E, R & R, at 11-12]. This R & R was subsequently round of summary judgment in a Report and Recommendation dated has been made. The lower court did decide the merits on the first Petitioner asserts that this is not true and that a mistake deciding the merits of Petitioner's claims. [App. E, Opinion, at 4].

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merits, then granted Davis' second summary judgment when it denied Davis' summary judgment motion on the

IV. Did the lower court violate the law-of-the-case doctrine

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Joel Carter

Date: June 1, 2019

APPENDIX A

